IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. MARK ALLEN HADDOCK, Appellant.	No. 38155-9-II UNPUBLISHED OPINION

Quinn-Brintnall, J. — Mark Haddock pleaded guilty to two counts of second degree possession of stolen property. Haddock appeals, arguing for the first time that he should be allowed to withdraw his guilty plea because he was not adequately informed of the consequences of pleading guilty. In his statement of additional grounds (SAG),[1] Haddock argues that the trial court erred by imposing consecutive sentences and that his attorney told him the court would not impose consecutive sentences. Concluding that Haddock does not show that his guilty plea was not knowingly, voluntary, and intelligently entered, and that the trial court did not err in imposing consecutive sentences, we affirm.[2]

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[1] RAP 10.10.

[2] A commissioner of this court initially considered Haddock's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

The State charged Haddock with first degree possession of stolen property, attempting to elude a pursuing police vehicle, two counts of first degree assault, and two counts of second degree possession of stolen property. As part of a plea agreement, Haddock agreed to plead guilty to both counts of second degree possession of stolen property. In exchange, the State agreed to dismiss the other charges and to recommend that Haddock's sentences run concurrently. The written plea agreement stated that the trial court did not have to follow any party's sentence recommendation and may "impose an exceptional sentence above the standard range if [the defendant is] being sentenced for more than one crime and [has] an offender score of more than nine." Clerk's Papers (CP) at 44.

On July 3, 2008, Haddock pleaded guilty to both counts of second degree possession of stolen property. Haddock acknowledged receiving and reading the plea agreement. He stated that he understood English and had no trouble reading the plea agreement. The trial court advised Haddock of the rights he waived and the consequences of his guilty plea. The trial court also noted that the State would recommend concurrent sentences but instructed Haddock that the sentencing court was not bound by that recommendation. The trial court accepted Haddock's guilty plea.

At Haddock's sentencing hearing, he stipulated to an offender score of 9+ and the State recommended concurrent sentences of 29 months of confinement. The sentencing court sentenced Haddock to 29 months of confinement on each count, which was the top of the standard sentencing range but ordered the sentences to run consecutively, which made it an exceptional sentence. Haddock did not move to withdraw his guilty plea. He now appeals.

Haddock argues that he should be allowed to withdraw his guilty plea because he was

inadequately informed of the consequences of pleading guilty. Due process requires that a defendant's guilty plea be knowing, voluntary, and intelligent. *In re Pers. Restraint of Isadore*, 151 Wn.2d 294, 297, 88 P.3d 390 (2004) (citing *Boykin v. Alabama*, 395 U.S. 238, 242, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969)). The constitutional requirements of a voluntary guilty plea are that (1) the defendant is aware that he is waiving his right to remain silent, right to confront his accusers, and right to a jury trial; (2) the defendant is aware of the essential elements of the offense charged; and (3) the defendant is aware of the direct consequences of pleading guilty. *In re Pers. Restraint of Hilyard*, 39 Wn. App. 723, 727, 695 P.2d 596 (1985) (citing *State v. Holsworth*, 93 Wn.2d 148, 153-57, 607 P.2d 845 (1980)). The trial court must make direct inquiries of the defendant to determine if he understands the nature of the charge and the full consequences of pleading guilty. *In re Pers. Restraint of Keene*, 95 Wn.2d 203, 206, 622 P.2d 360 (1980). An appellant may challenge the voluntariness of his plea for the first time on appeal. *State v. Wakefield*, 130 Wn.2d 464, 472, 925 P.2d 183 (1996).

Haddock acknowledges that his plea form stated that the trial court could impose an exceptional sentence if Haddock was being sentenced for more than one crime, which he was, and had an offender score of more than nine, which he did. He argues, though, that this is insufficient to prove he had an "explicit understanding of this prior to entering his plea" because the trial court advised him only that it could sentence him within the standard range. Br. of Appellant at 5. Also, he contends that the record fails to show that his attorney properly advised him of this possibility because his attorney acknowledged only that he had advised Haddock of the rights he waived.

Written plea agreements are a sufficient way of informing the defendant of the direct

consequences of pleading guilty. *In re Pers. Restraint of Stoudmire*, 145 Wn.2d 258, 266, 36 P.3d 1005 (2001). The trial court need not orally inquire into every potential consequence of a guilty plea and can instead rely upon the plea statement. *In re Keene*, 95 Wn.2d at 206. Haddock acknowledged reading his plea statement at his plea hearing. He concedes that his plea statement contained the relevant information. He was informed of the direct consequences of pleading guilty. He fails to demonstrate that his guilty plea was not knowing, voluntary, or intelligent.

In his SAG, Haddock contends that the trial court erred by imposing an exceptional sentence. A sentencing court may impose an exceptional sentence based on a judicial finding that the defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished. RCW 9.94A.535(2)(c); *State v. Newlum*, 142 Wn. App. 730, 732, 176 P.3d 529, *review denied*, 165 Wn.2d 1007 (2008). The trial court entered written findings that (1) Haddock had an offender score of 30, (2) Haddock had multiple current offenses, and (3) Haddock's offender score resulted in one current offense going unpunished. These findings support the trial court's conclusion that there "are substantial and compelling reasons to impose an exceptional sentence pursuant to RCW 9.94A.535." CP at 34. The trial court did not err in declaring that an exceptional sentence was warranted and ordering that Haddock's standard range sentence on each count must be served consecutively.

Haddock also contends in his SAG that his attorney told him the court "'would not issue consecutive sentences,'" and he interpreted that to mean "'could not.'" SAG at 1. On direct appeal, this court cannot consider matters outside the record. *State v. Bugai*, 30 Wn. App. 156, 158, 632 P.2d 917, *review denied*, 96 Wn.2d 1023 (1981). What Haddock's counsel may or may not have said to him is outside the record.

In conclusion, Haddock fails to show that his guilty plea was not knowing, voluntary, and intelligent. The trial court did not err in imposing Haddock's sentences consecutively, an exceptional sentence. We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

HOUGHTON, J.

PENOYAR, A.C.J.